



**Town of Surfside
Special Town Commission Meeting
October 13, 2009 6:00 p.m.**

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Fl
Surfside, FL 33154

AGENDA

1. Opening

- A. Call to Order**
- B. Roll Call of Members**
- C. Pledge of Allegiance**

2. Proposed Maranon Settlement Summary

3. Adjournment

Respectfully submitted,

Gary L. Word,
Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-893-6511 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING. HEARING IMPAIRED PERSONS MAY CONTACT THE TDD LINE AT 305-893-7936.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.


AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863. A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE TOWN WEBSITE AT www.townofsurfsidefl.gov

TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.

This is in the nature of an effort to compromise and settle what may become a claim and therefore pursuant to Section 90.408 is or will be inadmissible to prove liability or absence of liability for the claim or its value.

Town of Surfside

DATE: October 13, 2009
TO: Mayor and Town Commission
FROM: Gary L. Word, Town Manager 
RE: Maranon Settlement Summary

Background: The notes for properties owned by Maranon were due and payable on June 1, 2009. In a memo from Town Attorney, Lynn Dannheisser, the Town Commission received an update on the status of the Maranon settlement for properties at 9255 and 9249 Abbott Avenue as of June 9, 2009 (Attachment A).

On July 2, 2009, the Town Attorney, Building Official and Town Manager met to prepare for a scheduled meeting with the Maranon's and / or their representatives. On July 9, 2009, Town staff met with Mr. Jose Maranon, Mr. Paul Pacino and Mr. Jay Senter to determine the outstanding issues and reasons why the Maranon's are "unable" to pay the notes due on June 1, 2009. The meeting, while pleasant, focused on the "failure" of the Town to perform certain functions resulting in the Maranon's inability to improve the properties to secure new mortgages or sale of either property in a timely manner. They indicated there was a substantial increase in the dollars they had to spend because of these "failures". Meanwhile the housing market has deteriorated locally and nationally.

Issues Summary:

The Maranon's allege the following:

- 1) That they are unable to pay the notes at this time.
- 2) That the Town of Surfside was negligent in its responsibilities by failing to maintain the 9255 Abbott Ave property while under Town's ownership:
 - a) During the Town's ownership it shut the water service for three years causing pipes to dry out and burst when service turned on.
 - b) The Town failed to cover or repair small roof leaks which led to major damage and a new roof having to be installed to current code.
 - c) After transferring ownership to the Maranon/Arboleda family the Town failed to provide certificates of occupancy which made the properties impossible to sell, insure or secure new mortgages which were obligations under the settlement agreement.

- 3) The Town's Building Officials gave conflicting opinions regarding the requirements for the completion of work (i.e. requiring additional electrical improvements,) which also added substantially to the cost of renovation to the two structures.
- 4) The Maranon's have fulfilled the requirements under Exhibit "A" (Attachment B) of the settlement agreement and have kept the exterior of the properties maintained regularly as required.

As of this meeting there are six active permits for continued improvements to the two dwellings. Substantial work on the 9255 Abbott dwelling has been done over the past two years and inspections are set to be finalized and permits closed within the next ten days.

Following discussions a draft settlement outline was discussed. It was summarized in an e-mail to the Town Manager dated July 27, 2009 (Attachment C).

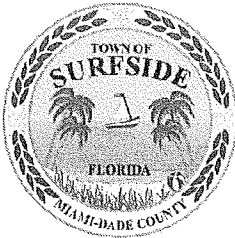
Proposal: The Maranon family is asking for the following:

- 1) Letters from the Town's Building Official acknowledging no record of certificate of occupancy for the two single family dwellings. These letters were provided on July 13, 2009 (Attachments D & E).
- 2) Notes, due June 1, 2009, would be extended 18 months from October 1, 2009 (if extended, due April 1, 2011).
- 3) Interest on the notes to be waived during the 18-month period justified by the additional extra expenses for deterioration to the 9255 structure that would not have occurred due to the Town's inability to provide documentation of a certificate of occupancy.
- 4) With the issuance of the certificate of occupancy letters, the Maranon's will place the properties on the market for sale. Should a sale occur before the requested due-date extension, the family would pay off the note(s) to the Town sooner.

Options: The Town Commission has essentially three options to consider.

- 1) Initiate the process pursuant to the Settlement Agreement - Attachment F – Section 1.6 (9249 Abbott Ave) and Section 1.7 (9255 Abbott Ave) to recover the proceeds of the notes due.
- 2) Accept the proposal submitted to the Town by the Maranon's (summarized above).
- 3) Continue negotiations for alternate settlement of some sort.

Recommendation: It is recommended that the Town Commission accept the proposal offered by the Maranon's including periodic progress reports to the Town Commission (i.e. every three months) showing meaningful progress toward successful sale of either of the two properties.




TOWN OF SURFSIDE
Office of the Town Attorney

MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
Town Attorney

Telephone: 305 861-4863
Facsimile: 305 861-1302
E-mail: ldannheisser@townofsurfsidefl.gov

MEMORANDUM

TO: Mayor Charles W. Burkett, Vice Mayor Marc Imberman,
Commissioner Howard S. Weinberg, Commissioner Steven Levine,
Commissioner Elizabeth Calderon
FROM: Lynn M. Dannheisser, Town Attorney 
SUBJECT: Status of Maranon Settlement (9255 and 9249 Abbott Avenue)
DATE: June 9, 2009

The Maranon Settlement Agreement ("Agreement") relative to 9255 and 9249 Abbott Avenue (the Properties") was approved in October, 2006. A summary of the requirements under the Agreement is attached hereto as Exhibit "A". The time by which performance of all obligations including repayment of the Promissory Notes on 9255 Abbott for \$150,000 and 9249 Abbott for \$190,000 was June 1, 2009, unless the time for repayment is extended.

In anticipation of this date, I asked the Maranon's representative, Jay Senter, to send me a status synopsis. I am enclosing as Exhibit "B" the draft report he sent to the Manager at my request and which he expects to finalize upon his return from Europe in the next couple of days. Regardless, however, it is clear that the Maranons will be requesting an extension of time for repayment. I have also asked our Building Official to contact the parties to request a personal inspection of the Properties so he can give us his independent analysis and update.

I will keep you apprised of the status of this matter unless any of you requests an executive session immediately. Otherwise, upon receipt of the final report from Jay Senter and Steve Uman, I will disseminate said report and we can schedule an Executive session at that time but, in no event later than June 30, 2009.

CC: Town Manager, Gary L. Word,
Town Building Official Steve Uman
Town Clerk Debbie Eastman

Exhibit "A"

SETTLEMENT AGREEMENT between the Town of Surfside and Maranon Parties

Summary of Requirements

I. 9255 Abbott Avenue

A. Promissory Note & Purchase Money Mortgage dated December 11, 2006

1. Requires payment of real estate taxes by December 31st of each year
 - a. 2007 taxes are due and payable i/a/o \$9278.47
2. Requires proof of insurance to Town, naming Town as named insured
3. Note matures December 11, 2008 but this was extended until June, 2009.

B. Notice of Default and Right to Cure. In the event of default by the Maranon Parties of the terms of the Settlement Agreement, Promissory Note, or Mortgage, Town to provide Maranon Parties with written notice of default and an opportunity to cure within 45 days of the notice. If the Parties fail to cure default, Town has the option of foreclosing on the Mortgage or instructing the Town attorney to release the Deed in Lieu of Foreclosure from escrow.

II. 9249 Abbott Avenue Property

A. Promissory Note & Purchase Money Mortgage Dated October 19, 2007

1. Requires payment of real estate taxes by December 31st of each year
 - a. 2007 taxes are due and payable i/a/o \$ 5,909.20
4. Requires proof of insurance to Town, naming Town as named insured
5. Note matures October 19, 2009 but this too was extended until 2009

B. Notice of Default and Right to Cure In the event of default by the Maranon Parties of the terms of the Settlement Agreement, Promissory Note, or Mortgage, Town to provide Maranon Parties with written notice of default and an opportunity to cure within 45 days of the notice. If the Parties fail to cure default, Town has the option of foreclosing on the Mortgage or instructing the Town attorney to release the Deed in Lieu of Foreclosure from escrow.

III. Curing of Zoning & Building Violations – Both Properties

A. Requires Maranon Parties to remedy and cure all violations listed in Exhibit "A" to the Settlement Agreement within one (1) year of the date of the Agreement (or by October 16, 2007).

1. Upon completion of all repair work, Town to inspect properties and issue appropriate confirmation or certification
 - a. Town shall notify Maranon Parties of any continuing violations, and Maranon Parties have additional 30 days to cure and request reinspection
 - b. Maranon Parties' failure to cure violations, following any additional remedy period, shall constitute a breach of Purchase Money Mortgage and entitle Town to an immediate release of the Deed in Lieu of Foreclosure held in escrow.

IV. Insurance Requirements

A. Section 11.0 of the Settlement Agreement requires that the Maranon Parties provide Town with proof of insurance on the Properties, naming the Town as mortgagee and loss payee, together with a copy of paid receipt for annual premiums.

Maranon status

Date: 5/28/2009
To: Gary Word
Cc: Lynn Dannheisser
From: Jay Senter
RE: Maranon Status
Priority: [Urgent]

Gary

As you are aware the Maranon note will become due on June 1, 2009. I have been involved in other non-Surfside activities for the past several months and failed to give you this Maranon status report as I had planned to do in early March.

Since the agreement was extended by the Commission, because of the length of time it took for the Town to reach agreement with Bank of America, much has been done by the Maranon/Arboleda Family to satisfy their obligation under the Settlement Agreement.

Both properties underwent permitting for exterior painting and substantial clean-up and tree planting took place and the landscaping is being maintained by an outside gardening service every three weeks.

Permits pulled and work was completed on a new tile roof for 9255 Abbott. This roof, it was found, had to be replaced and not repaired as anticipated, because while under the Towns ownership it failed to enter and inspect the leaking roof and ultimately it collapsed and hence replacement necessary at a significant but unexpected cost. Because of the moisture created by major water damage all of the interior walls were with mold and had to be replaced. All of the glass window panels had to be replaced because they had been broken by vandals over the prior years under town ownership. This work was also completed.

A Permit was pulled for a new bathroom in 9255 Abbott and while being constructed it became necessary to replace most of the homes plumbing since when the Town owned it, no water service was on and when the service was activated the pipes were leaking and broken as a result of years of non use. The lateral connection cracked and the family discovered that the house had no sewer connection at all. The waste had been disposed of for years (prior to their ownership) by connecting to the line of the 9249 Abbott property Central Plumbing came to do the replacement and the lateral hook-up.

While doing the lateral work, Central Plumbing damaged the driveway with their equipment and when the family asked them for insurance information to make a claim for repair, Central ignored them repeatedly and then said they didn't do the damage. Furthermore they attempted to fix the damage they "didn't do" to the brick pavers by painting them without family knowledge or approval. As if they

hadn't created enough of a problem they left their permit open for nearly ten months and filed a lien notice on the property. Each of these actions created further delay in finishing work the permitted work in progress. Nonetheless, the family moved forward with its compliance obligations.

At a meeting January 4, 2008 asked for by the family to discuss the nearly \$100,000 of extra cost which the family anticipated would be spent as a result of the towns failure to maintain the property and advise them of its condition prior to the settlement. Attending this meeting were; the Acting Town Manager, Pam Bragnaccio, Town Attorney Lynn Dannheisser, Building Official Norman Braun, Mayor Burkett and me. The family members and I made those present aware of the fact that no CO's were found in the building files and we had been requesting them as they were required to obtain insurance and to seek mortgage financing. Under the towns ownership there had been no insurance policy on the 9255 Abbott house, and because there had been no continuous insurance it was unobtainable without a Certificate of Occupancy. We again asked the Town to provide CO's for both properties and Norm Braun was to work out the details in a letter to be prepared in conjunction with the Town Attorney indicating there were CO's which the town could not locate, establishing something that would satisfy the requirement. Also discussed were building plans, previously submitted electrical plans as well as a set of complete architectural drawings that had gone "missing".

Norman Braun was directed to undertake the task of getting the CO issue resolved and attempting to locate plans.

The CO letter never materialized. Instead, after several months, Building Official Braun gave the family five requirements from the State of Florida which would possibly allow the issuance of a CO. because the ones that previously were introduced in court proceedings appeared to have been "removed" from the building files. These requirements included a set of "as built" plans, the cost of which, was many thousands of dollars. It was money which the family did not have nor did they feel they should have to spend. The fact that CO's existed since the houses were built and were part of a court record, should have precluded this requirement along with the fact that because many of the files, included building plans and architectural plans which had previously been submitted were not found or incomplete which made dealing with these outstanding issues a real problem.

In the matter of the electrical the requirement was supposed to have been compliance to code at the time the house was built. A permit was pulled by the electrical contractor which originally called for only the new bathroom GIF to have to be to current code. However the Electrical Inspector for the town decided that everything had to be made to current code and as a result the electrical contractor withdrew since he wanted no problems. As of this writing he has decided to re-apply for the permit and expects with some aide from the building department, have the electrical ready for final after June 5th.

To summarize candidly the family asked for relief at the January 4th meeting. The manager was not familiar with the case and simply chose to do nothing. Mayor Burkett alluded to some financial consideration but again nothing materialized. The family has deep concerns that what was a nightmare under the Novack/Will/ Cypen/Ginsburg administrations may not be over. In the settlement agreement these houses had not one single code violation and two and a half years later they can't get Certificates of Occupancy, the real estate market has plummeted, they have spent tens of thousands of dollars and the 9255 ABBOTT house has been virtually zeroed out by the Value Adjustment Board because without a CO it is uninhabitable.

I am asking on behalf of the family to consider the facts and responsibly come up with some alternative solutions before the mortgage becomes delinquent and the roller coaster starts again.

Jay Senter

Cc: Jose Maranon Marco Arboleda Paul Pacino

B

EXHIBIT "A"

9249 Abbot Avenue Code Violations

1. Remove additional exterior door leading to front porch.
2. Remove furniture and debris on front porch
3. Obtain after-the-fact permit for garage conversion to bedroom and 2 bathrooms.
4. Perform general property maintenance to resolve overgrown shrubs and grass.

9255 Abbot Avenue Code Violations

1. Remove or repair outdoor spa in backyard to eliminate stagnant water.
2. Perform general property maintenance, including wood fence debris, and shrub overgrowth.

Gary Word

From: Jay Senter [jay.senter@gmail.com]
Sent: Monday, July 27, 2009 10:40 AM
To: Gary Word
Subject: Maranon status
Attachments: maranon status.doc2.doc

Hi Gary;

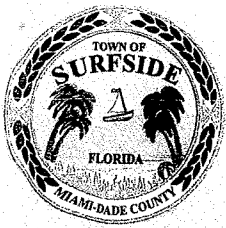
At July 9th meeting with you, Town Attorney Dannheisser, Steve Uman, Jose Maranon, Paul Pacino and myself we reviewed the problems that have contributed to the inability of the Maranon/Arboleda family to pay the mortgages when they were due. So as discussed here is what the family is asking for:

1. Notes to be extended to become due 18 months from August 1, 2009.
2. The extraordinary circumstances involving the deterioration to 9255 Abbott the Town created which included all the mold in the walls from the damaged roof, the extensive termite damage plus the lack of CO's creating enormous un-anticipated extra expense to make the property habitable as well as the time created by aforementioned, the family would ask the interest be waived for the two year period.
3. Both properties will be put on the market now that CO documentation is completed.

I have attached my memo to you Please let me know if there is any additional information which you need.

Thanks for your help,

Jay



TOWN OF SURFSIDE

Municipal Building
9293 Harding Avenue
Surfside, Florida 33154
Tel (305) 861-4863
Fax (305) 861-1302

Charles W. Burkett
Mayor

July 13, 2009

Reference: 9249 Abbott Avenue
Surfside, Florida
Folio #14-2235-006-0781

Marc Imberman
Vice Mayor

To Whom It May Concern:

1. The Town of Surfside has extremely limited records pertaining to the above-reference single-family residence. There is no record of a permit for the original construction or the issuance of a certificate of occupancy for the house.
2. The Miami-Dade Property Appraiser's Office, as part of their records, shows that the building was constructed in 1949. A certificate of occupancy had to have been issued, because a copy is provided to the Appraiser in order for the building to be placed on the tax rolls.
3. The Town no longer has a copy of the certificate of occupancy ("CO") in its records. However, based on the facts and circumstances, *sine qua non*, it would appear that the Town would have issued such a CO in or around 1949.
4. The undersigned represents to any person or entity to whom this letter is presented, that this letter may be presented as "no objection" to the inability of the Owner, their successors or assigns to produce an original CO.

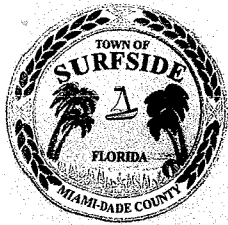
Howard S. Weinberg, ESQ.
Commissioner

Steven Levine, ESQ.
Commissioner

Elizabeth Calderon, ESQ.
Commissioner

Gary L. Word
Town Manager


Stephen Uman, Building Official



TOWN OF SURFSIDE

Municipal Building
9293 Harding Avenue
Surfside, Florida 33154
Tel (305) 861-4863
Fax (305) 861-1302

Charles W. Burkett
Mayor

July 13, 2009

Reference: 9255 Abbott Avenue
Surfside, Florida
Folio #14-2235-006-0780

Marc Imberman
Vice Mayor

To Whom It May Concern:

1. The Town of Surfside has extremely limited records pertaining to the above-reference single-family residence. There is no record of a permit for the original construction or the issuance of a certificate of occupancy for the house.
2. The Miami-Dade Property Appraiser's Office, as part of their records, shows that the building was constructed in 1961. A certificate of occupancy had to have been issued, because a copy is provided to the Appraiser in order for the building to be placed on the tax rolls.
3. The Town no longer has a copy of the certificate of occupancy ("CO") in its records. However, based on the facts and circumstances, *sine qua non*, it would appear that the Town would have issued such a CO in or around 1961.
4. The undersigned represents to any person or entity to whom this letter is presented, that this letter may be presented as "no objection" to the inability of the Owner, their successors or assigns to produce an original CO.

Howard S. Weinberg, ESQ.
Commissioner

Steven Levine, ESQ.
Commissioner

Elizabeth Calderon, ESQ.
Commissioner

Gary L. Word
Town Manager



Stephen Uman, Building Official

they were recognized as such by the Third District Court of Appeals in and by virtue of Town of Surfside v. Andrews, 193 So. 2d 207 (3rd DCA 1967). In view of the legally nonconforming status of the Maranon Properties, and in order to resolve all existing disputes between the Parties concerning purported zoning violations, the Town agrees to waive any further zoning enforcement action, including notices of violations, special master orders, civil penalties, and fines, as described in Sections 1.2.3 and 1.3.3 herein, against the 9249 Abbott Avenue Property and the 9255 Abbott Avenue Property in connection with past or existing zoning violations of the Code of the Town of Surfside. The Parties agree that pursuant to all applicable case law relative to legal nonconformities, the existing structures on the Maranon Properties may be continued without further zoning enforcement action by the Town, but shall not be enlarged, reconstructed, moved or structurally altered, or changed in any manner that would alter or modify the shape or size of any portion of the existing buildings or structures at the time of this Agreement, except in conformity with all applicable requirements of the Code of the Town of Surfside and zoning regulations. This Agreement shall be recorded in the Public Records and it is the intention of the Town that the provisions of this section shall run with the Maranon Properties for so long as the existing structures shall be continued thereon.

This Section in and of itself is not intended to take away any right to request a variance that may be otherwise available under general law.

1.5. CURING OF BUILDING CODE VIOLATIONS. Notwithstanding the provisions of section 1.4 hereinabove, the Maranon Parties shall, at their sole cost and expense, remedy and cure all repair items identified by the Town as per the Town's Code of Ordinances and the Florida Building Code, existing on the 9249 Abbott Avenue Property and the 9255 Abbott Avenue Property, within one (1) year of the date of this Agreement. The repair items to be cured by the Maranon Parties are set forth in Exhibit "A" attached hereto and made a part hereof. Upon completion of the work necessary to cure the violations, the Maranon Parties shall request that the Town's Building and Zoning Department perform all necessary inspections of the properties and obtain appropriate confirmation or certification that the repairs identified by the Town have been made. In the event that the Town's Building and Zoning Department determines that certain violation(s) listed on Exhibit "A" or otherwise identified have not been cured by the Maranon Parties on either of the properties, the Town shall notify the Maranon Parties of any such continuing violations, and the Maranon Parties shall have an additional thirty (30) day period from the delivery of such notice to remedy the violations and request reinspection. The Maranon Parties' failure to cure the repair items set forth in Exhibit "A" hereto and attainment of confirmation from the Town's Building and Zoning Department within one (1) year or following any additional remedy period shall constitute a breach of this Agreement and the Purchase Money Mortgages (as defined in Sections 1.6.4 and 1.7.3 below) applicable to the Maranon Properties, and entitle the Town to an immediate release from escrow and delivery of the Deed in Lieu of Foreclosure for the property in violation. The failure of the Defendants to cure the violations on one of the properties shall not subject the other to the remedies provided herein.

✓ 1.6. CONVEYANCE OF THE 9249 ABBOTT AVENUE PROPERTY TO THE TOWN; PROMISSORY NOTE AND PURCHASE MONEY MORTGAGE.

1.6.1. **Conveyance to Town.** At the Closing as set forth in Section 1.8 of this Agreement, Jose Maranon and Marco Arboleda, joined by their spouses, shall convey and transfer the 9249 Abbott Avenue Property to the Town, substantially in the form of a warranty deed prepared by the Town's Attorney and attached hereto as Exhibit "B-1". Any documentary or stamp or transfer taxes due in connection with the transfer shall be paid by the Town.

1.6.2 **Payment and Satisfaction of Bank of America Mortgage.** The Town represents to the Maranon Parties that it is currently in negotiations with Bank of America with respect to the payment of the Bank of America Mortgage. In the event that the Bank of America negotiations do not conclude by the Closing date set forth in Section 1.8 below, the parties agree to close the 9249 Abbot Avenue Property in escrow at the Closing. The Town agrees to pay Bank of America all amounts necessary for full payment and satisfaction of the Bank of America Mortgage. The Maranon Parties also acknowledge that they understand that while the Town is using its best efforts to pay and satisfy the Bank of America Mortgage for less than the total current indebtedness, ultimately the total paid to Bank of America by the Town on behalf of the Maranon Parties pursuant to this settlement may be the total amount due and owing without any reduction. In any case, the Maranon Parties agree to repay the Town for any all payments made to Bank of America regarding the mortgage on the terms set forth herein. Upon payment to Bank of America, the Town shall obtain an assignment from Bank of America of its note and mortgage, and the foreclosure action filed against the 9249 Abbott Avenue Property in the BOA Foreclosure Action. Upon the Maranon Parties execution of the Promissory Note and Purchase Money Mortgage for the 9249 Abbott Avenue Property to the Town, the Town will promptly release or satisfy the Bank of America Mortgage and dismiss the BOA Foreclosure Action.

1.6.3 **Conveyance by Town to the Maranon Parties.** At a Closing to occur within ten (10) days of the payment and the Bank of America Mortgage as provided in Section 1.6.2 above, the Town agrees to convey the 9249 Abbott Avenue Property to Jose Maranon by quit claim deed substantially in the form prepared by the Town's Attorney and attached hereto as Exhibit "B-2".

1.6.4 **Promissory Note and Purchase Money Mortgage in favor of Town.** At the Closing as set forth in Section 1.8 of this Agreement, and simultaneously with the Town's delivery of a quit claim deed to Jose Maranon conveying the 9249 Abbott Avenue Property, Mr. Maranon shall execute: (a) a Promissory Note in favor of the Town in a principal amount equaling the payoff amount of the Bank of America Mortgage, and (b) a Purchase Money Mortgage, joined by his spouse, on the 9249 Abbott Avenue Property, in the same principal amount, securing the Promissory Note. The Promissory Note shall be for a two (2) year term, amortized over fifteen (15) years, with interest fixed at a rate of 6.5%, and a sole and final balloon payment at the end of the two (2) year term of all principal and interest accrued. The Promissory Note and Purchase Money Mortgage shall be substantially in the form prepared by the Town's Attorney and attached hereto as Exhibits "B-3" and "B-4", respectively. During the term of the Promissory Note and Purchase Money Mortgage, the Maranon Parties shall keep the 9249 Abbott Avenue Property properly insured against hazards, including windstorm coverage, and shall timely pay all real estate taxes on the property. The Promissory Note and Purchase

Money Mortgage shall provide for acceleration and immediate payment to the Town upon the sale, conveyance, or transfer of the 9249 Abbott Avenue Property.

1.6.5. **Deed in Lieu of Foreclosure.** The Parties acknowledge and agree that this Agreement is in resolution of protracted and costly foreclosure and bankruptcy actions and appeals between the Town and the Maranon Parties related to the 9249 Abbott Avenue Property. The Parties have agreed to resolve these actions by a conveyance of the 9249 Abbott Avenue Property by the Maranon Parties, joined by their spouses, to the Town, payment by the Town of the Bank of America Mortgage, conveyance back by the Town of the 9249 Abbott Avenue Property to the Maranon Parties, and the taking back of a Promissory Note and Purchase Money Mortgage executed by the Maranon Parties, joined by their spouses, in favor of the Town. In the event of a default of the terms and obligations of this Agreement by the Maranon Parties, or non-payment or other default by the Maranon Parties of the Promissory Note and Purchase Money Mortgage, the Parties agree to avoid further foreclosure actions and litigation. Accordingly, the Maranon Parties, joined by their spouses, shall execute at Closing a Deed In Lieu of Foreclosure in favor of the Town, as grantee, conveying the 9249 Abbott Avenue Property, together with an Estoppel and Solvency Affidavit. The Deed in Lieu of Foreclosure and Estoppel and Solvency Affidavit shall be substantially in the form prepared by the Town's Attorney and attached hereto as Exhibits "B-5" and "B-6", respectively.

1.6.5.1 **Escrow.** The executed Deed in Lieu of Foreclosure and Estoppel and Solvency Affidavit shall be delivered to the Town's Attorney to be held in escrow, subject to the terms set forth herein. In the event of a default by the Maranon Parties of the terms and obligations of this Agreement, or non-payment or other default of the Promissory Note or Purchase Money Mortgage pertaining to the 9249 Abbott Avenue Property, the Town shall provide the Maranon Parties with written notice of the default, with a copy to the Town's attorney, and an opportunity to cure the default within forty-five (45) days of the notice (the "45 Day Cure or Redemption Period"). Should the Maranon Parties fail to cure the default within the 45 Day Cure or Redemption Period (as determined by the Town in its sole and absolute discretion) and provide evidence to the Town of such cure, the Town shall have the right and option of electing to either: (a) foreclose on the Purchase Money Mortgage (in the event that in violation of Section 1.6.4 above junior liens or encumbrances exist on the 9249 Abbott Avenue Property), or (b) instruct the Town Attorney to immediately release the Deed in Lieu of Foreclosure and Estoppel and Solvency Affidavit from escrow and deliver to the Town for recording in the public records.

1.7. **CONVEYANCE OF THE 9255 ABBOTT AVENUE PROPERTY BY THE TOWN TO THE MARANON PARTIES; PROMISSORY NOTE AND PURCHASE MONEY MORTGAGE.**

1.7.1 **Payment and Satisfaction of SIB Mortgage.** The Town represents to the Maranon Parties that, pursuant to a separately-negotiated settlement agreement with SIB Mortgage, it has negotiated a settlement with SIB Mortgage in the amount of \$150,000.00 to obtain an assignment from SIB Mortgage Corp. of its note and mortgage, and the SIB Foreclosure Action filed against the 9255 Abbott Avenue Property. Upon the execution of the

Promissory Note and Purchase Money Mortgage by the Maranon Parties for the 9255 Abbott Avenue Property to the Town, the Town will promptly release or satisfy the SIB Mortgage and dismiss the foreclosure action. The Maranon Parties acknowledge and agree that the borrower and mortgagor under the SIB Mortgage is Marcelo Fernandez, and that the Town will be paying of the debt or mortgage loan in the name of Marcelo Fernandez.

1.7.2 **Conveyance by Town to the Maranon Parties.** At the Closing, as set forth in Section 1.8 herein, the Town agrees to convey the 9255 Abbott Avenue Property to Marco and Enriquita Arboleda, by quit claim deed substantially in the form prepared by the Town's Attorney and attached hereto as Exhibit "C-1."

1.7.3 **Promissory Note and Purchase Money Mortgage in favor of Town.** At the Closing as set forth in Section 1.8 herein, and simultaneously with the Town's delivery of a quit claim deed to Marco Arboleda and Enriquita Arboleda, his spouse, conveying the 9255 Abbott Avenue Property, Mr. and Mrs. Arboleda shall execute: (a) a Promissory Note in favor of the Town in a principal amount equaling the payoff amount of the SIB Mortgage, and (b) a Purchase Money Mortgage on the 9255 Abbott Avenue Property, in the same principal amount, securing the Promissory Note, joined by their respective spouses. The Promissory Note shall be for a two (2) year term, amortized over fifteen (15) years, with interest fixed at a rate of 6.5%, and a sole and final balloon payment at the end of the two (2) year term of all principal and interest accrued. The Promissory Note and Purchase Money Mortgage shall be substantially in the form prepared by the Town's Attorney and attached hereto as Exhibits "C-2" and "C-3", respectively. During the term of the Promissory Note and Purchase Money Mortgage, the Maranon Parties shall keep the 9255 Abbott Avenue Property properly insured against hazards, including windstorm coverage, and shall timely pay all real estate taxes on the property. The Promissory Note and Purchase Money Mortgage shall provide for acceleration and immediate payment to the Town upon the sale, conveyance or transfer, of the 9255 Abbott Avenue Property.

1.7.4. **Deed in Lieu of Foreclosure.** The Parties acknowledge and agree that this Agreement is in resolution of protracted and costly foreclosure and bankruptcy actions and appeals between the Town and the Maranon Parties related to the 9255 Abbott Avenue Property. The Parties have agreed to resolve these actions by a conveyance of the 9255 Abbott Avenue Property by the Town to the Maranon Parties, payment by the Town of the SIB Mortgage, and the taking back of a Promissory Note and Purchase Money Mortgage executed by the Maranon Parties and their spouses in favor of the Town. In the event of a default of the terms and obligations of this Agreement by the Maranon Parties, or non-payment or other default by the Maranon Parties of the Promissory Note and Purchase Money Mortgage, the Parties agree to avoid further foreclosure actions and litigation. Accordingly, at the Closing the Maranon Parties, joined by their spouses, shall execute a Deed In Lieu of Foreclosure in favor of the Town, as grantee, conveying the 9255 Abbott Avenue Property, together with an Estoppel and Solvency Affidavit. The Deed in Lieu of Foreclosure and Estoppel and Solvency Affidavit shall be substantially in the form prepared by the Town's Attorney and attached hereto as Exhibits "C-4" and "C-5", respectively.

1.7.4.1 **Escrow.** The executed Deed in Lieu of Foreclosure and Estoppel and Solvency Affidavit shall be delivered to the Town's Attorney to be held in escrow, subject to the terms set forth herein. In the event of a default by the Maranon Parties of the terms and obligations of this Agreement, or non-payment or other default of the Promissory Note or Purchase Money Mortgage pertaining to the 9255 Abbott Avenue Property, the Town shall provide the Maranon Parties with written notice of the default, with a copy to the Town's attorney, and an opportunity to cure the default within forty-five (45) days of the notice (the "45 Day Cure or Redemption Period"). Should the Maranon Parties fail to cure the default within the 45 Day Cure or Redemption Period (as determined by the Town in its sole and absolute discretion) and provide evidence to the Town of such cure, the Town shall have the right and option of electing to either (a) foreclose on the Purchase Money Mortgage (in the event that junior liens or encumbrances exist on the 9255 Abbott Avenue Property), or (b) instruct the Town Attorney to immediately release the Deed in Lieu of Foreclosure and Estoppel and Solvency Affidavit from escrow and deliver to the Town for recording in the public records.

1.8 **CLOSING.** A Closing of the transactions and execution of the documents set forth in Sections 1.6 et seq. and 1.7 shall take place within ten (10) business days of full execution of this Agreement. The Closing shall take place at a mutually-convenient time at the Office of the Town Attorney, Weiss Serota Helfman Pastoriza Cole & Boniske, P.A., 2665 South Bayshore Drive, Suite 420, Miami, FL 33133. In the event that the Bank of America Mortgage negotiations are not concluded as set forth in Section 1.6.2 at the time of the Closing, the parties agree to close the 9249 Abbott Avenue Property in escrow, with all required notes, mortgages and other required papers signed at that time by the Maranon Parties. In any event, the Town is authorized to conclude the Bank of America Mortgage payment and satisfaction negotiations within sixty (60) days of the date of Closing, and the Maranon Parties agree to repay the Town pursuant to this Agreement, and all sums paid by the Town to Bank of America to obtain the required satisfaction. Once the Bank of America Mortgage is paid and a satisfaction is obtained by the Town as set forth in Section 1.6.2, the Town is authorized by the Maranon Parties to revise the notes and mortgages to reflect the final payment amount tendered to Bank of America, and release the documents from escrow to conclude the closing on the 9249 Abbott Avenue Property.

1.9 **STIPULATION OF DISMISSAL.** Once the settlement has closed as set forth in Sections 1.0 and 1.8 above, the Town's Attorney and the Maranon Parties through their counsel will file appropriate Stipulations of Dismissal with Prejudice, providing that all of the pending litigation involving the Town and the Maranon Parties will be dismissed with prejudice, with both sides to bear their own attorneys' fees and costs. The Maranon Parties represent that Jose Maranon has received a general discharge of his bankruptcy as of December 2005, and that the bankruptcy trustee has abandoned any claims to the Maranon Properties. Within ten (10) days of being requested by the Town Attorney or its title company, the Maranon Parties shall clear any title issues at their own expense created by their bankruptcy filings. The Maranon Parties also agree that this settlement is contingent upon their successfully having all of the pending bankruptcy and related adversary proceedings that relate to the 9249 and/or 9255 Abbott Avenue Properties dismissed by the Closing, and that title to the Maranon Properties are no longer subject to any orders of the bankruptcy court and/or any receiver. The parties understand